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September 13, 2004

Via FedEx/Overnight Delivery

Roy Q. Luckett
Office of General Counsel
Federal Election Commission
999 E Street Northwest
Washington, DC 20463

Re: MUR 5514
Community Water System Public Water Authority of the State of Arkansas

Dear Mr. Luckett:

As you know, I represent Community Water System Public Water Authority of the State of Arkansas ("CWS"). CWS acknowledges its August 30, 2004 receipt of Chairman Smith's letter.

Further, CWS denies it knowingly and willfully violated any laws. CWS does not believe it should be held responsible for the unlawful conduct of its former general manager, Greg Smith. As more fully discussed below, upon learning of the allegations, members of the Board of Directors of CWS made several attempts in the fall of 2002 to bring the allegations against Mr. Smith to the attention of various authorities with no success.

As noted in the Factual and Legal Analysis attached to Chairman Smith's letter of August 24, 2004, Shelly Davis contacted Board members, John Buster, Philip "Pete" Gist and Barbara Sullivan, alerting them for the first time of allegations that Greg Smith, General Manager of CWS,

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had directed certain vendors to make contributions to federal election campaigns and then to seek reimbursement from CWS through false invoices. During September and early October these three Board members attempted to collect more information and obtained information and various documents. Shelly Davis provided them with copies of invoices and emails from the law firm of Gill Elrod Ragon Owen & Sherman LLP ("Gill Law Firm"). She also provided emails and handwritten notes of Greg Smith pertaining to political fundraisers.

During this same timeframe, Pete Gist confronted Greg Smith in the CWS office in Greers Ferry, Arkansas. Mr. Gist asked Mr. Smith if CWS was making political donations directly or indirectly. While balking at first, Mr. Smith eventually answered "yes" and mentioned the names of Heartsill Ragon, Charlie McLaughlin and Luke Quinn. When Mr. Gist inquired as to how much money was involved, Smith indicated up to \$20,000. Attached for your review is an excerpt from Mr. Gist's deposition taken in the litigation that continues between Mr. Smith, his company CenArk Project Management and CWS.

In early October 2002, Board member Barbara Sullivan contacted Richard Mays, an Arkansas attorney. Mr. Mays' practice focuses primarily on environmental law. Mr. Mays did, however, attempted to help Ms. Sullivan. Mr. Mays contacted Mr. Tim Humphries, legal counsel to the Arkansas Secretary of State, who informed Mays that it was beyond the Secretary of State's jurisdiction, but suggested that a contact be made with Graham Sloan at the Arkansas Ethics Commission. Ms. Sullivan contacted Mr. Sloan who said the matter was outside of the Ethics Commissions' jurisdiction.

Mr. Mays then contacted Sandra Cherry, Assistant U.S. Attorney in Little Rock, with whom Mr. Mays was acquainted. Eventually, Ms. Sullivan also contacted Ms. Cherry. The U.S. Attorney's office would not commit to take any action. Ms. Sullivan also attempted to contact the authorities in Cleburne County, Arkansas where CWS is located. None of the above officials would take any action. I had hoped to have affidavits from Mr. Mays and Ms. Sullivan to accompany this letter, however, we have not been able to finalize the affidavits. I will forward them to you as soon as they are completed.

Having obtained no assistance from any law enforcement authority, Mr. Buster, Mr. Gist and Ms. Sullivan determined that they needed to share the information they had with Board member Melton Cotton. Mr. Cotton was and is the Mayor of Greenbrier, Arkansas. It was then decided that the Board would confront Mr. Smith with the evidence they had available. At the November 18, 2002 monthly Board meeting of the CWS Board of Directors, the Board went into executive session. The session lasted over two hours. First, the Board confronted Jim McNeill, then Board president, who was closely aligned with Greg Smith. The Board questioned Mr. McNeill about the political contribution allegation and about certain details concerning the contract of CWS and CenArk Project Management, Mr. Smith's company. Mr. McNeill went into a rage and left the meeting. The

remaining Board members then called Mr. Smith into the executive session meeting and confronted him with the allegations concerning the political contributions. Contrary to his prior statements to Mr. Gist, Mr. Smith denied any plan to reimburse vendors for their political contributions. Ms. Sullivan then confronted Mr. Smith with the emails that were exchanged between Shelly Davis and Heartsill Ragon on October 7, 2002. Mr. Smith continued to deny any knowledge of the matter. Four days later, however, the Gill Law Firm sent a check in the sum of \$4,002.00 to CWS. On page 8 of *The Factual and Legal Analysis* memo, Ms. Davis' confrontation with Mr. Smith is alluded to as the motivation for Mr. Smith contacting the Gill Law Firm. In reality, the Board believes the Executive Session with Mr. Smith prompted the Gill Law Firm refund.¹

After the Thanksgiving holiday, the Board received Ms. Davis' memo and email concerning Mr. Smith's treatment of her following his meeting with the Board. The three Board members contacted and met with Richard Mays and requested him to conduct an investigation on behalf of the Board. Mr. Mays was provided with the backup documentation and various memos. On December 13, 2002, Mr. Mays interviewed Heartsill Ragon and John Gill of the Gill Law Firm. When Mr. Ragon and Mr. Gill admitted that political contributions had been made. When questioned about the reimbursement evidence, Mr. Gill responded with words to the effect, "if it looks like a duck, walks like a duck, and quacks like a duck, it must be." Both Mr. Ragon and Mr. Gill admitted the invoices were submitted to obtain reimbursement for the contributions. Mr. Mays reported the results of this meeting to Ms. Sullivan who then relayed them to the other Board members.

On December 13, 2002, Mr. Buster, Mr. Gist and Ms. Sullivan signed a letter directed to Greg Smith asking for his resignation. (A copy of the letter is attached.) Mr. Smith did not resign and on the following Monday, December 16, 2002 at its regular monthly meeting, the Board voted to terminate Mr. Smith's employment and to remove Mr. McNeill as Board president.

Over the next several weeks, Mr. Smith and Mr. McNeill were assisted and represented by an attorney named Joe Marshall. Mr. Marshall had recently moved, on at least a part-time basis, to the Greers Ferry area from his home in Minnesota. Mr. Marshall requested in writing all documents or evidence concerning any charges against Mr. Smith. A packet of information was given to Mr. Marshall who then suggested to the members of the press that they also request the information.

In January of 2003, CWS's Board of Directors voted to terminate its relationship with the Gill Law Firm.

¹You should also be aware that in September of 2002, the Gill Law Firm served as bond counsel on a \$60 million dollar bond issue for CWS. Out of the three bond issues, over \$200,000 was paid to the Gill Law Firm for legal services.

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Concerning the other vendors, Charlie McLaughlin and Luke Quinn, CWS was not able to detect any unusual or suspicious billing on the part of those two gentlemen's companies. Mr. Gist confronted Mr. McLaughlin about the allegations. Mr. McLaughlin consistently maintained that while he made political contributions, he did not seek in any fashion or form to obtain reimbursement from CWS. Mr. Quinn's position has been the same.

During our telephone conversation you inquired as to whether Shelly Davis still works for CWS. As I told you Ms. Davis is still employed by CWS. Neither she nor CWS has any objection to you or a member of your staff interviewing her privately.

Mr. Smith currently has two lawsuits pending against CWS. His personal suit against CWS is pending in Van Buren County, Arkansas. He claims that CWS wrongfully terminated his employment. As I told you in our telephone conversation, in a deposition recently, his attorney Ralph Blagg, maintained his client has dismissed that suit; however, we have yet to receive any formal papers. Mr. Smith's second lawsuit is on behalf of his company, CenArk Project Management. In 2002, CWS terminated its agreement with CenArk Project Management. Mr. Smith has sued for damages. Also, Mr. McNeill has a lawsuit pending against CWS on grounds that he was wrongfully removed from the Board of Directors.

As it so happens, Ms. Sullivan's deposition in the pending litigation is scheduled for September 13, 2004. By the time you receive this letter, her deposition will be completed, however, I will not have the transcript. I do not know if Mr. Smith's lawyer will question her concerning the political contributions. Likewise, Melton Cotton's deposition is scheduled for Friday, September 17, 2004 in the same litigation.

Based on the above, CWS respectfully requests that no further action be taken against it by the Federal Election Commission. As you can see, the Board members did not approve of or condone Mr. Smith's actions. Indeed, the Board took many steps in attempts to involve local and state federal authorities in the matter. Your consideration of its request would be appreciated. I will forward the affidavits of Ms. Sullivan and Mr. Mays as soon as possible. I look forward to hearing from you.

Yours truly,


Elizabeth Robben Murray

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w/enc.